

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JORDAN TUCKER

Plaintiff,

v.

ARMANDO DE LA CRUZ,

Defendant.

Case No. 1:24-cv-01566-KES-EPG (PC)

FINDINGS AND RECOMMENDATIONS
THAT (1) THIS CASE PROCEED ONLY
ON PLAINTIFF'S FOURTH AMENDMENT
CLAIM AGAINST DEFENDANT DE LA
CRUZ BASED ON THE OCTOBER 20,
2023, CELL SEARCH AND PLAINTIFF'S
EIGHTH AMENDMENT CLAIM AGAINST
DEFENDANT DE LA CRUZ FOR
EXCESSIVE FORCE BASED ON THE
JULY 12, 2023 INCIDENT; AND (2) ALL
OF OTHER CLAIMS BE DISMISSED

(ECF Nos. 1, 12)

OBJECTIONS, IF ANY, DUE WITHIN 30
DAYS

Plaintiff Jordan Tucker is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed under 42 U.S.C. § 1983. (ECF No. 1). Plaintiff filed the compliant commencing this action on December 20, 2024, which alleges he had several incidents with Correctional Officer Armando De La Cruz that Plaintiff claims violated his constitutional rights. (ECF No. 1).

On October 8, 2025, the Court screened the complaint, concluding that Plaintiff sufficiently stated claims against Defendant De La Cruz under the Fourth Amendment for an October 20, 2023 cell search and the Eighth Amendment for excessive force based on a July 12, 2023 incident. (ECF No. 12). The Court also explained why the complaint failed to state

any other cognizable claims. The Court gave Plaintiff thirty days to either file (1) a notice to proceed on these claims, (2) a first amended complaint; or (3) a notice to stand on his complaint and have it reviewed by a district judge. (*Id.* at 9-10).

On October 29, 2025, Plaintiff filed a “Notice re: Screening Order,” stating that Plaintiff is “wishes to proceed only on Plaintiffs [sic] Eighth Amendment claim for excessive force base [sic] on July 12, 2023 and the Fourth Amendment claim against Defendant Armando De La Cruz base [sic] on the October 20, 2023 cell search. These are the only two claims that Plaintiff wishes to proceed with.” (ECF No. 13 at 2).

Accordingly, for the reasons set forth in the Court’s screening order that was entered on October 8, 2025 (ECF No. 12), and because Plaintiff has notified the Court of the claims he wishes to proceed on (ECF No. 13 at 2), IT IS RECOMMENDED that:

1. This case proceed on Plaintiff’s claims against Defendant De La Cruz under the Fourth Amendment for an October 20, 2023 cell search and the Eighth Amendment for excessive for based on a July 12, 2023 incident; and
2. All other claims be dismissed with prejudice for failure to state a claim.

These findings and recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty (30) days after being served with these findings and recommendations, Plaintiff may file written objections with the Court. The document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Any objections shall be limited to no more than 15 pages, including exhibits.

Plaintiff is advised that failure to file objections within the specified time may result in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).
IT IS SO ORDERED.

Dated: **October 30, 2025**

/s/ Eric P. Grogan
UNITED STATES MAGISTRATE JUDGE